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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,673	03/12/2001	Eric B. Remer	1020.P10680	1993
57035 7590 03/20/2007 KACVINSKY LLC C/O INTELLEVATE P.O. BOX 52050 MINNEAPOLIS, MN 55402			EXAMINER BROWN, CHRISTOPHER J	
			ART UNIT 2134	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			03/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/804,673	Applicant(s) REMER ET AL.	
	Examiner Christopher J. Brown	Art Unit 2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15-28 and 30-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15-28 and 30-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Response to Arguments***

Applicant's arguments filed 12/29/06 have been fully considered but they are not persuasive. Applicant states that the claimed subject matter teaches "establishing a secure communication environment between a monitored program and said managing program comprise said security code embedded therein". Applicant argues that the England US 6,330,670 reference does not teach that the code is embedded in said programs. Upon inspection of the specification the examiner asserts that the applicant does not define or state that the security code is embedded. The applicant uses the example of SSL on page 14 of the specification as a method of encryption. The England reference also uses the SSL method of encryption. Therefore the England reference meets the claim limitation as stated by the applicant. Both the instant specification and the England reference use the same methods of cryptography and the Examiner can find no other reference in the specification that the security code is embedded.

Below is a substantially similar office action to the previous non-final office action.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-8, 11, 13-16, 18, 19 20-24, and 28-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswold US 5,940,504 in view of England US 6,330,670

As per claims 1, 8, 15,16, 20-24, 30-33 Griswold discloses a method to manage use of a program wherein it is determined whether a monitored program (Licensed product) is authorized to execute by sending a request datagram to the Licensor, (Col 4 lines 34-40).

Griswold discloses measuring a usage time for said monitored program, and sending it to a managing program (Licensor), every time interval (Col 4 line 38, Col 6 line 10-19).

Griswold does not disclose the method that the user receives the program, time interval or license. Griswold does not teach encrypting said time interval or license.

England teaches a method of distributing programs, licenses and time intervals. England teaches that a user may download, content and a license for the content, the license including a time interval, (Col 19 lines 45-53, Col 20 lines 1-13, Fig 11). England US 6,330,670 teaches encryption of the time interval (license) using a security code (session key), which is embedded in both programs (Col 10 lines 4-13).

It would have been obvious to one of ordinary skill in the art to combine the time interval and distribution of software over the net of England of Griswold, because net distribution is faster and more economical, and the encryption enhances the security of the system..

As per claim 2, Griswold discloses receiving a request for authorization to execute from said monitored program, (Col 5 lines 47-52). Griswold discloses authorizing the

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monitored program for a time interval (Col 4 lines 23-25, Col 6 lines 14-19). Griswold discloses renting via a lease (Col 7 lines 15-18).

As per claim 3, Griswold discloses repeating operations a) to c) (repeated datagrams on time intervals) until a terminating event has occurred (denial), (Col 6 lines 15-20, Col 5 lines 40-43).

As per claim 4, Griswold teaches adding each time interval together to form a time usage, (Col 4 lines 35-40).

As per claim 6, 18, 19 Griswold discloses a terminating event comprising failure to receive another request for authorization due to a detachment from the network, (Col 4 lines 19-23).

As per claim 7, Griswold teaches encryption in authorization requests, (Col 8 lines 3-7).

As per claims 11, Griswold teaches time interval in an authorization table (Datagram Number, Sent Date& Time, Send Interval), and sending part of the table to the licensor via datagram (Fig 2, Col 6 lines 1-15).

As per claims 13, and 28 Griswold teaches determining cost value of usage, (Col 4 lines 35-40).

Claims 5, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswold US 5,940,504 in view of England US 6,330,670 in view of Mita US 5,291,596.

As per claims 5, and 17,

The Griswold-England combination does not disclose a termination message.

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Mita teaches a termination message indicating the program has stopped executing, (Col 6 lines 8-22).

It would have been obvious for one of ordinary skill to add Mita's termination notice to Griswold's program authorization system, so that Griswold would be able to better manage the availability of programs for the licensee, (Mita line 15) (Griswold table 1, Col 11, #4).

Claims 9, 10, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswold US 5,940,504 in view of England US 6,330,670 in view of Munguia US 2001/0052013.

As per claims 9, 10, 25, and 26, The Griswold-England combination does not disclose http.

Munguia teaches communicating with a version of http, https, ([53]). It would have been obvious to one skilled in the art to use https communicating over the Internet in Griswold, because https is secure.

Claims 12, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswold US 5,940,504 in view of JP 10320070A.

As per claims 12, and 27, Griswold teaches time interval in an authorization table (Datagram Number, Sent Date& Time, Send Interval), and sending part of the table to the licensor via datagram (Fig 2, Col 6 lines 1-15).

Griswold does not disclose showing usage to a user.

JP 10320070A teaches a client that shows the user the program name, program price, program start time, and program usage time, (Abstract, Title).

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It would have been obvious to one skilled in the art to include showing usage to a user with Griswolds system so that a user may be able to distinguish cost and time usage of an application.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Brown whose telephone number is (571)272-3833. The examiner can normally be reached on 8:30-6:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on (571)272-3811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher J. Brown

3/17/06



KAMBIZ ZAND
PRIMARY EXAMINER